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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,626	11/12/1999	JACQUES H. HELOT	109911266-1	1876

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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

CUFF, MICHAEL A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/439,626

Applicant(s)

HELOT ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Applicant's Response***

1. Applicant's response, filed 5/24/04, has been received.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al in view of Boguraev et al. Smith et al disclose a computer-implemented ordering system comprising an interface (100) adapted to provide a representation of a consumer item and an option associated with the item (see Figures 7-14), and a presentation module (127) adapted to provide a preview representation of a consumer item with the option in response to a user positioning a cursor over an icon and clicking on the icon (see col. 9, lines 13-23 and col. 11, lines 6-14). Smith et al. disclose clustering option that is dependent on previous selections (col.11, lines 6-14). Smith et al further disclose a presentation module adapted to provide attribute data and statistical information associated with the consumer item (see Fig. 15). The presentation module is automatically updated with the preview representation of the consumer item updated with the option (see col. 9, lines 24-64). The user is prevented from selecting options that are incompatible with previous selections (col. 9, lines 58-64).

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Smith et al do teach the step of updating the preview in real-time. However, real-time updates are common in the art, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of updating the preview in real-time to meet consumer needs.

Smith et al do not teach the step of providing an audio preview. However, sound effects are common in the art, and applicant's disclosure of "sounds associated with the various payment and shipping options (such as an airplane sound for shipping by air)" (p.

16, lines 23-25) is also common in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of providing an audio preview with the invention of Smith et al to provide a further indication of the option being selected.

Smith et al do not teach that the presentation is updated in response to a user clicklessly positioning a cursor over an icon. Boguraev et al teach a dynamic presentation that is updated when a user rolls a mouse over an icon (see col. 22, lines 20-44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Boguraev with the invention of Smith et al to update the presentation when a user clicklessly positions a cursor over because it is more efficient than requiring a user to click on an icon.

***Response to Arguments***

3. Applicant's arguments filed 5/24/04 have been fully considered but they are not persuasive.

Applicant asserts that a prima facie case has not been made. The examiner does not concur. See rejection.

Applicant asserts that there is no motivation to combine the references. The examiner does not concur. Improving efficiency by adopting another graphical interface method would be motivation for one of ordinary skill in the art to improve a system.

Applicant asserts the combination of Smith et al. And Boguraev et al. Reference does not "provide a real-time preview representation of the consumer item updated with the option in response to a user clicklessly positioning a cursor over an icon corresponding to the option." The examiner does not concur. First, and only applying to the apparatus claims, the claim actually reads "a presentation module adapted to provide ..." Please note MPEP on "adapted to" language in an apparatus claim. Second, both Smith and applicant's inventions have options and updates. The only difference is how the option is selected. Boguraev et al. Teaches an icon response just by rolling over the icon. The references were properly combined.

Applicant asserts that Smith cannot meet the above discussed limitation because the visual display of Smith is behind the configuration screens. The examiner does not concur. Smith shows a "windows" environment. Just because the example shows the configuration screen blocking part of the visual display does not mean that the window can't be moved.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 9/3/04  
Michael Cuff  
September 3, 2004